

# Senate Study Bill 3214

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
COMMERCE BILL BY  
CO=CHAIRPERSON WARNSTADT)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the linked investments for tomorrow Act.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
3 TLSB 5848SK 81  
4 tm/gg/14

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1 1 Section 1. Section 12.31, Code 2005, is amended to read as  
1 2 follows:  
1 3 12.31 SHORT TITLE.  
1 4 This section and sections 12.32 through ~~12.43B~~ 12.43 shall  
1 5 be known as the "Linked Investments for Tomorrow Act".  
1 6 Sec. 2. Section 12.32, Code 2005, is amended to read as  
1 7 follows:  
1 8 12.32 DEFINITIONS.  
1 9 As used in section 12.31, this section, and sections ~~12.33~~  
1 10 ~~12.34~~ through ~~12.43B~~ 12.43, unless the context otherwise  
1 11 requires:  
1 12 1. "Eligible borrower" means any person who is ~~in the~~  
~~1 13 business or is entering the business of producing, processing,~~  
~~1 14 or marketing horticultural crops or nontraditional crops in~~  
~~1 15 this state or any person in this state who is qualified to~~  
1 16 participate in one of the programs in this section and  
1 17 sections ~~12.33~~ 12.34 through ~~12.43B~~ 12.43. "Eligible  
1 18 borrower" does not include a person who has been determined to  
1 19 be delinquent in making child support payments or any other  
1 20 payments due the state.  
1 21 2. "Eligible lending institution" means a financial  
1 22 institution that is empowered to make commercial loans and is  
1 23 eligible pursuant to chapter 12C to be a depository of state  
1 24 funds.  
1 25 3. "Linked investment" means a certificate of deposit  
1 26 ~~placed issued~~ pursuant to this section and sections ~~12.33~~  
1 27 ~~12.34~~ through ~~12.43B~~ by 12.43 to the treasurer of state with  
1 28 by an eligible lending institution, at an interest rate not  
~~1 29 more than three percent below current market rate on the~~  
~~1 30 condition that the institution agrees to lend the value of the~~  
~~1 31 deposit, according to the investment agreement provided in~~  
~~1 32 section 12.35, to an eligible borrower at a rate not to exceed~~  
~~1 33 four percent above the rate paid on the certificate of~~  
~~1 34 deposit. The treasurer of state shall determine and make~~  
~~1 35 available the current market rate which shall be used each~~  
~~2 1 month, determined by one of the following:~~  
2 2 a. When the current market rate, as determined and made  
2 3 available by the treasurer of state each month, is five  
2 4 percent per annum or more, the interest rate per annum shall  
2 5 be up to three percentage points below the current market  
2 6 rate.  
2 7 b. When the current market rate, as determined and made  
2 8 available by the treasurer of state each month, is less than  
2 9 five percent per annum, the interest rate per annum shall be  
2 10 up to sixty percent below the current market rate.  
2 11 4. ~~"Qualified linked investment" means a linked investment~~  
~~2 12 in which a certificate of deposit is placed by the treasurer~~  
~~2 13 of state with an eligible lending institution under the~~  
~~2 14 traditional livestock producers linked investment loan program~~  
~~2 15 established under section 12.43A.~~  
2 16 Sec. 3. Section 12.34, Code 2005, is amended to read as  
2 17 follows:

2 18 12.34 LINKED INVESTMENTS == LIMITATIONS == RULES ==  
2 19 MATURITY AND RENEWAL OF CERTIFICATES.

2 20 1. The treasurer of state may invest up to the lesser of  
2 21 one hundred eight million dollars or ~~ten~~ twenty-five percent  
2 22 of the balance of the state pooled money fund in certificates  
2 23 of deposit in eligible lending institutions as provided in  
2 24 ~~sections section 12.32 and 12.33, this section, and sections~~  
2 25 ~~12.35 through 12.43B 12.43.~~ The moneys invested pursuant to  
2 26 ~~this section shall be used as follows:~~

2 27 a. ~~The treasurer of state may invest up to sixty-eight~~  
2 28 ~~million dollars to support programs provided in sections 12.32~~  
2 29 ~~and 12.33, this section, and sections 12.35 through 12.43B~~  
2 30 ~~other than the traditional livestock producers linked~~  
2 31 ~~investment loan program as provided in section 12.43A and the~~  
2 32 ~~value-added agricultural linked investment loan program as~~  
2 33 ~~provided in section 12.43B.~~

2 34 b. ~~The treasurer of state shall invest the remaining~~  
2 35 ~~amount as follows:~~

3 1 (1) ~~At least twenty million dollars shall be invested in~~  
3 2 ~~order to support the traditional livestock producers linked~~  
3 3 ~~investment loan program as provided in section 12.43A.~~

3 4 (2) ~~At least twenty million dollars shall be invested in~~  
3 5 ~~order to support the value-added agricultural linked~~  
3 6 ~~investment loan program as provided in section 12.43B.~~

3 7 2. a. The treasurer of state shall adopt rules pursuant  
3 8 to chapter 17A to administer ~~sections section 12.32 and 12.33,~~  
3 9 ~~this section, and sections 12.35 through 12.43B 12.43.~~

3 10 b. ~~The treasurer of state in cooperation with the board of~~  
3 11 ~~directors of the agricultural development authority as~~  
3 12 ~~established in section 175.3 shall adopt rules for the~~  
3 13 ~~administration of the traditional livestock producers linked~~  
3 14 ~~investment loan program as provided in section 12.43A. The~~  
3 15 ~~treasurer of state in cooperation with the agricultural~~  
3 16 ~~products advisory council established in section 15.203 shall~~  
3 17 ~~adopt rules for the administration of the value-added~~  
3 18 ~~agricultural linked investment loan program as provided in~~  
3 19 ~~section 15.204.~~

3 20 3. A certificate of deposit, ~~which is placed by that is~~  
3 21 ~~issued to the treasurer of state with by an eligible lending~~  
3 22 ~~institution on or after July 1, 1996 2006,~~ may be renewed at  
3 23 the option of the treasurer on an annual basis for a total  
3 24 term not to exceed five years. ~~The following shall apply to~~  
3 25 ~~the certificate of deposit:~~

3 26 a. ~~For a linked investment other than a qualified linked~~  
3 27 ~~investment, the initial certificate of deposit for a given~~  
3 28 ~~borrower shall have a maturity of one year. The certificate~~  
3 29 ~~of deposit may be renewed on an annual basis for a total term~~  
3 30 ~~not to exceed five years.~~

3 31 b. ~~For a qualified linked investment, the initial~~  
3 32 ~~certificate of deposit for a given borrower shall have a~~  
3 33 ~~maturity of one year. The certificate of deposit may be~~  
3 34 ~~renewed on an annual basis for a total term not to exceed~~  
3 35 ~~three years.~~

4 1 Sec. 4. Section 12.35, subsection 1, Code 2005, is amended  
4 2 to read as follows:

4 3 1. An eligible lending institution that desires to receive  
4 4 a linked investment shall enter into an agreement with the  
4 5 treasurer of state, which shall include requirements necessary  
4 6 for the eligible lending institution to comply with sections  
4 7 12.32 through 12.34, this section, and sections 12.36 through  
4 8 ~~12.43B 12.43.~~

4 9 Sec. 5. Section 12.36, subsection 2, Code 2005, is amended  
4 10 to read as follows:

4 11 2. Upon acceptance of the linked investment loan package  
4 12 or any portion of the package, the treasurer of state shall  
4 13 ~~place certificates of deposit funds~~ with the eligible lending  
4 14 institution at a rate not more than three percent below the  
4 15 current market rate and the eligible lending institution shall  
4 16 issue to the treasurer of state one or more certificates of  
4 17 deposit with interest at a rate determined pursuant to section  
4 18 12.32, subsection 3. ~~The treasurer of state shall place a~~  
4 19 ~~certificate of deposit funds with an eligible lending~~  
4 20 ~~institution pursuant to sections 12.32 through, 12.34, 12.35,~~  
4 21 ~~this section, and sections 12.37 through 12.43B 12.43, unless~~  
4 22 ~~the certificate of deposit earns a rate of interest of at~~  
4 23 ~~least two one percent. Interest earned on the certificate of~~  
4 24 ~~deposit and principal not renewed shall be remitted to the~~  
4 25 ~~treasurer of state at the time the certificate of deposit~~  
4 26 ~~matures. Certificates of deposit placed issued pursuant to~~  
4 27 ~~sections 12.32 through, 23.34, 12.35, this section, and~~  
4 28 ~~sections 12.37 through 12.43B 12.43 are not subject to a~~

4 29 penalty for early withdrawal.

4 30 Sec. 6. Section 12.38, Code 2005, is amended to read as  
4 31 follows:

4 32 12.38 REPORTS.

4 33 By February 1 of each year, the treasurer of state shall  
4 34 report on the linked investments for tomorrow programs for the  
4 35 preceding calendar year to the governor, the department of  
5 1 economic development, the speaker of the house of  
5 2 representatives, and the president of the senate. The speaker  
5 3 of the house shall transmit copies of this report to the house  
5 4 co-chair of the joint economic development appropriations  
5 5 subcommittee and the chairs of the standing committees in the  
5 6 house which customarily consider legislation regarding  
5 7 agriculture, ~~and commerce, and economic growth~~, and the  
5 8 president of the senate shall transmit copies of this report  
5 9 to the senate co-chair of the joint economic development  
5 10 appropriations subcommittee and the chairs of the standing  
5 11 committees in the senate which customarily consider  
5 12 legislation regarding agriculture, ~~and commerce, and economic~~  
5 13 ~~growth~~. The report shall set forth the linked investments  
5 14 made by the treasurer of state under the program during the  
5 15 year, the total amount deposited, the number of deposits, and  
5 16 an estimate of foregone interest, and shall include  
5 17 information regarding the nature, terms, and amounts of the  
5 18 loans upon which the linked investments were based and ~~the a~~  
5 19 ~~listing of~~ eligible borrowers to which the loans were made.

5 20 Sec. 7. Section 12.43, Code 2005, is amended to read as  
5 21 follows:

5 22 12.43 ~~FOCUSED~~ SMALL BUSINESS LINKED INVESTMENTS PROGRAM  
5 23 ~~CREATED == DEFINITIONS.~~

5 24 The treasurer of state shall adopt rules to implement a  
5 25 ~~focused~~ small business linked investments program to increase  
5 26 the availability of lower cost funds to inject needed capital  
5 27 into small businesses owned and operated ~~by women or~~  
5 28 ~~minorities in this state by residents of this state~~, which is  
5 29 the public policy of the state. The rules shall be in  
5 30 accordance with the following:

5 31 1. As used in this section+.

5 32 a. ~~"Disability" is defined as provided in section 15.102,~~  
5 33 ~~subsection 5.~~

5 34 b. ~~"Focused small business" means a one of the following:~~

5 35 a. ~~A new small business which is fifty-one percent or more~~  
6 1 ~~owned, operated, and actively managed by one or more women,~~  
6 2 ~~minority persons, or persons with a disability, provided the~~  
6 3 ~~business that meets all the requirements of subsection 5.~~

6 4 c. ~~"Major life activity" is defined as provided in section~~  
6 5 ~~15.102, subsection 5.~~

6 6 d. ~~"Minority person" is defined as provided in section~~  
6 7 ~~15.102, subsection 5.~~

6 8 b. ~~An existing small business that meets all of the~~  
6 9 ~~requirements of subsection 5 where local competition does not~~  
6 10 ~~exist in the principal area of business activity of the~~  
6 11 ~~existing small business, and the loss of the existing small~~  
6 12 ~~business would result in a hardship on the community.~~

6 13 2. Loan applications for a ~~focused~~ new small business  
6 14 shall be for the purchase of land, improvements, fixtures,  
6 15 machinery, inventory, supplies, equipment, information  
6 16 technology, or licenses, or patent, trademark, or copyright  
6 17 fees and expenses. Loan applications for the transfer of an  
6 18 existing small business shall be to assist in the transfer of  
6 19 ownership of retail, wholesale, manufacturing, service, or  
6 20 agricultural business that may close in the absence of  
6 21 sufficient financial assistance.

6 22 3. During the lifetime of this loan program, the maximum  
6 23 amount of assistance that an eligible borrower or business may  
6 24 borrow or receive through this loan program shall be ~~one~~ two  
6 25 hundred thousand dollars. An eligible borrower or business  
6 26 under this program shall be limited to one loan from one  
6 27 financial institution.

6 28 4. A preference shall be given to those persons who are  
6 29 less able than other persons to secure funds for a ~~focused~~  
6 30 small business without participation in the ~~focused~~ small  
6 31 business linked investment program.

6 32 5. In order to qualify under this program, all owners of  
6 33 the business or borrowers must not have a combined net worth  
6 34 exceeding ~~five~~ seven hundred ~~fifty~~ thousand dollars as defined  
6 35 in rules adopted by the treasurer of state pursuant to chapter  
7 1 17A and the ~~focused~~ small business must meet all of the  
7 2 following criteria:

7 3 a. Be a for-profit business.

7 4 b. Have annual gross sales of two million dollars or less

7 5 at the time the application is submitted under section 12.35.  
7 6 c. Not be operated out of the home of any person, unless  
7 7 the person is eligible for a deduction on federal income taxes  
7 8 pursuant to 26 U.S.C. } 280A.  
7 9 d. Not involve real estate investments, rental of real  
7 10 estate, leasing of real estate, or real estate speculation.  
7 11 e. Liquor, beer, and wine sales must not exceed twenty  
7 12 percent of annual sales for establishments holding a class "C"  
7 13 liquor license issued pursuant to section 123.30.  
7 14 f. If an application involves the transfer of an existing  
7 15 small business, the transfer must be by purchase, lease=  
7 16 purchase, or contract of sale. The purchase must be for all  
7 17 or a portion of the business which is essential to its  
7 18 continued viability, including land where the business is  
7 19 located, fixtures attached to the land, machinery, inventory,  
7 20 supplies, equipment, information technology, or licenses,  
7 21 patents, trademarks, copyrights, or other intellectual  
7 22 property relied upon by the business, and inventory for sale  
7 23 by the business.  
7 24 g. A borrower and the seller of an existing small business  
7 25 shall not be within the third degree of consanguinity or  
7 26 affinity.

7 27 6. Loan proceeds shall not be used to refinance existing  
7 28 debt, including credit card debt. However, proceeds may be  
7 29 used to refinance a short-term bridge loan made in  
7 30 anticipation of the treasurer of state's approval of the  
7 31 linked investment loan package.

7 32 7. Eligible lending institutions shall verify the borrower  
7 33 is eligible to participate under the provisions of this  
7 34 section pursuant to rules adopted by the treasurer of state  
7 35 pursuant to chapter 17A.

8 1 Sec. 8. Sections 12.33, 12.40, 12.41, 12.43A, 12.43B, and  
8 2 15.204, Code 2005, are repealed.

8 3 EXPLANATION

8 4 This bill relates to the linked investments for tomorrow  
8 5 Act.

8 6 The bill eliminates the rural small business transfer  
8 7 linked investment loan program, the horticultural and  
8 8 nontraditional crops linked investment loan program, the  
8 9 traditional livestock producer's linked investment loan  
8 10 program, and the value-added agricultural linked investment  
8 11 loan program. The bill makes conforming amendments.

8 12 The bill changes the method for determining the interest of  
8 13 a certificate of deposit issued under the small business  
8 14 linked investments program to the treasurer of state by an  
8 15 eligible lending institution. The bill provides two  
8 16 possibilities. One possibility is when the current market  
8 17 rate, as determined and made available by the treasurer of  
8 18 state each month, is 5 percent per annum or more, the interest  
8 19 rate per annum shall be up to 3 percentage points below the  
8 20 current market rate. The second possibility is when the  
8 21 current market rate, as determined and made available by the  
8 22 treasurer of state each month, is less than 5 percent per  
8 23 annum, the interest rate per annum shall be up to 60 percent  
8 24 below the current market rate. The bill makes conforming  
8 25 amendments.

8 26 The bill changes the amount of moneys the treasurer of  
8 27 state may invest under the linked investments program.  
8 28 Currently, the treasurer of state may invest up to the lesser  
8 29 of \$108 million or 10 percent of the balance of the state  
8 30 pooled money fund. The bill increases the allowable  
8 31 percentage from 10 percent to 25 percent.

8 32 The bill provides that a certificate of deposit issued by  
8 33 an eligible lending institution to the treasurer of state  
8 34 under the program may be renewed at the option of the  
8 35 treasurer on an annual basis for a total term not to exceed  
9 1 five years.

9 2 The bill changes the name of the focused small business  
9 3 linked investments program to the small business linked  
9 4 investments program. The bill changes the eligibility  
9 5 criteria under the program. Currently, the program is  
9 6 available to new small businesses meeting certain criteria  
9 7 which is 51 percent or more owned, operated, and actively  
9 8 managed by one or more women, minority persons, or persons  
9 9 with a disability. The bill eliminates the requirement  
9 10 regarding ownership, operation, and active management of the  
9 11 business. The bill provides that a new or existing small  
9 12 business is eligible if all owners of the business or  
9 13 borrowers do not have a combined net worth exceeding \$750,000  
9 14 and if the business is a for-profit business, has annual gross  
9 15 sales of \$2 million or less, is not operated out of the home

9 16 of any person unless certain criteria are met, does not  
9 17 involve real estate investments, rental of real estate,  
9 18 leasing of real estate, or real estate speculation, and  
9 19 liquor, beer, and wine sales do not exceed 20 percent of  
9 20 annual sales for certain liquor license holders. The bill  
9 21 provides that, if an application involves the transfer of an  
9 22 existing small business, the transfer must be by purchase,  
9 23 lease=purchase, or contract of sale. The bill provides that a  
9 24 borrower and the seller of an existing small business shall  
9 25 not be within the third degree of consanguinity or affinity.  
9 26 The bill provides an additional requirement for existing small  
9 27 businesses that local competition does not exist in the  
9 28 principal area of business activity of the existing small  
9 29 businesses.  
9 30 LSB 5848SK 81  
9 31 tm:rj/gg/14